IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 147 OF 2004

Shri. Govind R. Chikodikar.
....Applicant.

Vs.

Smt. Shantabai Vinayak Balpathak and another.
....Respondents.

Mr. A.V. Anturkar, Advocate for the Applicant.
Ms. G.P. Muleker, Advocate for the Respondent.

CORAM: S.B. MHASE &
R.S.MOHITE, JJ.

DATED: 13/9/2004

P.C.

1. Heard Mr. Anturkar for the applicant.

2. No doubt, there is a dispute about the relationship as husband and wife, however, yet it is to be decided in a civil proceeding. This proceeding arises from Section-125 proceeding under Criminal Procedure Code. Earlier there was maintenance order passed in favour of the respondent and she had filed a petition for enhancement with the change in circumstances and therefore, the Family Court had increased the maintenance amount Rs.1000/-. The application filed by the applicant for cancellation of the maintenance order has been rejected by the Family

Court. Since the dispute regarding the relationship is pending before the civil court, the application for cancellation of the maintenance amount has been rightly rejected and no interference at this stage is called for in that order. So far as enhancement of the amount is concerned, Mr. Anturkar, learned counsel for the applicant submitted that the applicant is a retired person and approximately his total pension is Rs.3000/-p.m. He further submitted that the maintenance amount of Rs.1000/- is very harsh amount and the same may be reduced.

2. We have perused the pension slip which discloses that basic pension is near about Rs.3000/- and if it is properly calculated, taking into consideration the present Dearness Allowance amount, it will be more than Rs.5000/- to 6000/- approximately. Under these circumstances, taking into consideration the standard of living and the fact that the respondent is a wife of the retired Excise Inspector, so also the present hike in price index, amount of Rs.1000/- which has been enhanced by the Family Court is just and proper and no interference is called for. Therefore, revision application is rejected.

(R.S. MOHITE, J.) **(S.B. MHASE, J.)**